


### REMARKS/ARGUMENTS

Claims 20-49 are currently pending in the application. Claims 20-39 have been rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement. Claims 47 and 48 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Claims 42-45 and 49 have been rejected under the judicially-created doctrine of obviousness-type double patenting in light of U.S. Patent No. 6,741,563. Claims 40 and 41, however, have been allowed. Claims 46 thru 48 have been objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form.

Applicant has amended claims 20 to 39 to replace, where appropriate, the term "target bandwidth" with the term "target rate." Applicant has also amended claims 47 and 48 as suggested by the Examiner to overcome the rejection set forth above. To overcome the rejection of claims 42-45 and 49, Applicant submits herewith a Terminal Disclaimer and the appropriate fee. Lastly, Applicant has added claims 50 thru 54. Applicant submits herewith the fees required for the addition of claims 50-54.

In light of the foregoing, Applicant believes that all currently pending claims are presently in condition for allowance. Applicant respectfully requests a timely Notice of Allowance be issued in this case. If the Examiner believes that any further action by Applicant is necessary to place this application in condition for allowance, Applicants request a telephone conference with the undersigned at the telephone number set forth below.

Respectfully Submitted,  
LAW OFFICE OF MARK J. SPOLYAR  
By



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